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ABSTRACT

An evaluation was done of the use of funds generated by clinical practices at the Clinical Practice Management Plan of the State University of New York (SUNY) Health Science Center (HSC) at Stony Brook. The audit looked at compliance with Board of Trustee policies regarding: (1) whether 5 percent of the gross receipts from clinical practices were placed in a fund dedicated to the general benefit of the school, (2) whether operating expense were deductible according to federal tax guidelines, (3) whether net income from clinical practices was used for the benefit of the school, and (4) whether compensation limitations for members were being observed. The evaluation found that HSC did not ensure that: dedicated fund transactions benefit the School, Plan expenses are documented as allowable business expenses, compensation limits for physicians are enforced, or the Plan's net income is deposited in a fund dedicated to the benefit of the School. Recommendations from a previous audit had also not been implemented. This audit recommended a current surplus of $4 million and future net income be transferred to a dedicated fund to avoid the risk that this money will go to benefit the Plan and its members rather than the School. Comments of SUNY officials included agreement with the recommendation to establish guidelines for Plan expenditures and the need for an alternative depository for Plan surpluses but disagreement with the limits for physician compensation on the grounds that these limits no longer reflect market economies. (JB)

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State of New York
Office of the State Comptroller

Division of Management Audit

Report 94-S-34

Dr. Thomas A. Bartlett
Chancellor
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Albany, NY 12246

Dear Dr. Bartlett:

The following is our report on the State University of New York Health Science Center at Stony Brook's Clinical Practice Management Plan.

This audit was performed pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law. Major contributors to this report are listed in Appendix A.

Office of the State Comptroller
Division of Management Audit

August 29, 1995

Executive Summary

State University of New York
Health Science Center at Stony Brook
Clinical Practice Management Plan

Scope of Audit

The Health Science Center at Stony Brook (HSC), operated by the State University of New York (SUNY), consists of five schools and operates a 536-bed teaching hospital and a 350-bed veterans' home. Faculty at HSC's School of Medicine (School) have both teaching and research responsibilities and may also provide medical care to patients. The School's Clinical Practice Management Plan (Plan) regulates the patient income generated by these faculty. The Plan consists of 18 separate medical service groups, primarily established by department within the School. A Governing Board, consisting of members of each medical service group, manages the day-to-day activities of the Plan. Doctors in these groups receive salaries from the State and compensation from the Plan.

Article XVI of the SUNY Board of Trustees Policies (Policies) regulates the use of funds generated by clinical practices. Guidelines in the Policies include the following stipulations: 5 percent of the gross receipts from clinical practices are to be placed in a fund dedicated to the general benefit of the School; Plan operating expenses must be deductible according to IRS guidelines; and net income from clinical practices is to be used for the benefit of the School. The Policies also limit the compensation that Plan members can receive from clinical practices.

Our audit addressed the following question about the Clinical Practice Management Plan:

- Are the Policies promulgated by the SUNY Board of Trustees being complied with?

Audit Observations and Conclusions

We found that HSC does not ensure that: dedicated fund transactions benefit the School, Plan expenses are documented as allowable business expenses, compensation limits for physicians are enforced, or the Plan's net income is deposited in a fund dedicated to the benefit of the School. HSC officials, in conjunction with SUNY Central Administration and the Board of Trustees, need to establish guidelines to promote the appropriate use of funds reserved for the benefit of the School.

We reviewed samples of expenditure transactions and noted expenditures from the dedicated benefit funds which appeared to produce questionable benefit for the School. For example, we found that an HSC official used monies from the Vice-President's Fund to pay $49,000 in unearned salary to a former State employee, and that over $22,000 in dedicated fund monies were used to pay for personal items such as entertainment and catering. We also found that not all Plan expenses we reviewed met the IRS guidelines for adequate documentation. HSC officials also do not enforce physician compensation limits, as required; our examination of the salary records of a sample of 20 Plan members found 4 who were paid a total of $650,000 more than the Policies allow. Spending more than is necessary, or allowable, reduces the net income available for the benefit of the School.

Our prior audit of the HSC Plan management and subsequent follow-up review of that audit recommended that HSC develop expenditure guidelines for the use of dedicated benefit funds and turn over accumulated surpluses, and future Plan net income, to such a dedicated fund. HSC officials have not implemented these recommendations. They state that guidelines are unnecessary and that their use of a custodial fund for Plan surpluses is in compliance with the Policies. We contend that, since the Plan retains control over the custodial fund, it does not comply with the intent of Article XVI of the Policies. Unless the current surplus of $4 million and future net income are transferred to a dedicated fund, there is a risk that this money will go to benefit the Plan and its members, rather than the School.

Comments of SUNY Officials

SUNY officials agree with our recommendation to establish guidelines for Plan expenditures and also indicate they will evaluate the need for an alternative depository for HSC Plan surpluses. Concerning physician compensation limits, SUNY officials believe the limits set forth in the Policies no longer reflect market economics and are in the process of redefining them.

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Introduction

Background

The State University of New York (SUNY) at Stony Brook operates a Health Science Center (HSC) which consists of five schools: the schools of Medicine, Nursing, Dental Medicine, Social Welfare and Health Technology and Management. Total enrollment at the five schools is about 1,900. HSC also operates a 536-bed teaching hospital and the 350-bed Long Island Veterans' Home.

Faculty of the School of Medicine (School) have both teaching and research responsibilities. In addition to these responsibilities, medical doctors on the faculty of the School may engage in the practice of clinical medicine. The practice of medicine is integral to teaching it to medical students and residents and can enhance faculty income. However, the total amount of compensation that they can receive for patient care is limited. The School Clinical Practice Management Plan (Plan) regulates the patient care income generated by these faculty.

There are about 400 physicians with faculty appointments in 18 HSC departments that belong to the Plan. Generally, each department constitutes a medical service group (Group) within the Plan. The Groups pay compensation to the members, as well as other Group operating expenses. Most Plan members receive such compensation in addition to their State salaries. For the fiscal year ended June 30, 1993, the 18 Groups generated total Plan revenue of nearly $76 million, and compensated their physician members more than $33 million.

The SUNY Board of Trustees (Trustees), in agreement with New York State and the United University Professions, Inc. (the negotiating unit that represents the physicians), has established policies that cover the criteria for Plan membership and compensation. Article XVI of the Trustees Policies (Policies) provides guidelines and restrictions on the conduct of clinical practice by faculty, including the requirement that they must practice under the auspices of a Plan. The Policies regulate the use of funds generated by these clinical practices. Among other things, the Policies stipulate that:

- Five percent of the gross clinical practice income is to be deposited into a fund (or funds) administered by the Chief Administrative Officer of the HSC to be used for the benefit of the School.

- Group operating expenses must meet IRS guidelines for deductible expenses. This means that they must be ordinary and necessary to the conduct of the business.

- Any funds remaining after compensation of the doctors and other Plan expenses shall be used for the benefit of the School.

HSC's Plan Governing Board (Board) oversees the use of Plan funds. The Board, which is responsible for the Plan's day-to-day management, consists of members of each Group. The Policies authorize the Board to establish supplementary guidelines for expending clinical practices income.

In our prior audit of the HSC Plan (Report 88-S-174, issued in June 1989), we identified questionable expenditures of Plan funds. We recommended that HSC establish guidelines to ensure that such funds are used to benefit the School, as required by the Policies. The report also recommended that the Plan transfer to the School retained earnings totaling $5 million. In our follow-up review of that audit (Report 92-F-10, issued in December 1991), we found that HSC had not established expenditure guidelines, as recommended, and that the retained earnings had not been transferred. Rather, they had grown to $9 million. SUNY and HSC officials disagreed with the recommendations contained in both reports. Their responses stated they saw no need to establish expenditure guidelines or transfer retained earnings to the School.

Audit Scope, Objectives and Methodology

We audited HSC's Plan administration for the period July 1, 1990 through December 31, 1993. The primary objective of our performance audit was to determine the extent of the Plan's compliance with the Trustees' Policies. To accomplish this objective, we reviewed applicable policies, procedures and regulations, interviewed HSC, Plan and Group officials, and examined appropriate expenditure documentation. We also followed up on HSC implementation of the recommendations contained in our prior reports regarding the Plan.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of HSC at Stony Brook that are included within the audit scope. Further, these standards require that we understand HSC's internal control structure and

compliance with those laws and regulations that are relevant to HSC operations that are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities to be audited. This approach focuses our audit efforts on those activities that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient and effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvements and does not address activities that may be functioning properly.

Response of SUNY Officials to Audit

A draft copy of this report was provided to SUNY officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the State University of New York shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Management of Funds to Benefit the School

Five percent of the gross clinical practice income is to be deposited into funds administered by HSC, to be used for the benefit of the School. Seventy percent of these monies is to go into the Dean's Fund and 30 percent into the Vice-President's Fund. We found that some expenditures from these two funds were of questionable benefit to the School or appeared to be costs that should have been paid from State appropriations. To ensure that expenditures are in compliance with Policies, HSC in conjunction with SUNY Central Administration and the Trustees should establish guidelines that specifically define those expenditures that provide benefit to the School. HSC should also improve compliance with existing guidelines for reimbursable expenditures to ensure their propriety and reasonableness.

Expenditures to Benefit the School

To determine whether expenditures from these funds generally benefited the School, we reviewed a judgmental sample of $1.6 million from the total disbursements of $8.1 million made during the period September 1, 1991 through December 31, 1993. We identified about $664,000 of expenditures that were of questionable benefit to the School or appeared to be costs that should have been paid from State appropriations. About $570,000 of the $664,000 was for renovations to and furniture and materials for the School's departments and administrative areas. Our 1991 follow-up review found that the School had spent $900,000 for various administrative office space renovations. HSC officials have told us that these expenditures were incurred on behalf of the School. While this observation is accurate, we question whether these type expenditures should instead be made from State appropriations, and be subject to budgetary controls, as well as related bidding requirements.

HSC officials contend that State funds are not available for these purposes, leaving them no other source of funds to pay for renovations. Our intent is not to criticize HSC for using Plan funds in this manner, but rather to report that this type of expenditure is occurring and recommend that SUNY formulate guidelines covering the appropriate use of clinical practice funds.

We also found that a former Director of Nursing at the Long Island State Veterans' Home (Home), which is administered by SUNY at Stony Brook, was paid $49,000 from the Vice-President's Fund. During our recent audit of the Home, we found that an HSC official had allowed the former Director of Nursing to continue receiving full pay for six months

after she was dismissed from her position at the Home. The HSC official did not notify the Office of State Comptroller's Payroll Bureau that this individual was no longer providing services to the State. Once we brought this matter to the attention of the Payroll Bureau, her payroll checks were withheld. The former Home Director repaid the entire amount of the unearned compensation to the State on October 8, 1992. However, during our current audit, we found that an HSC official sent this individual two checks from the Vice-President's Fund totaling approximately $49,000 in July and August 1992 with instructions that she use the money to repay the State.

HSC officials believe that these payments were appropriate because they helped resolve an internal management problem which was disrupting the Home's viability as a teaching site for medical students and residents. We do not believe that this expenditure was appropriate. Rather, the payments were an improper continuance of the Director of Nursing's salary for six months after she stopped working at the Home. It appears the payments were designed to circumvent the objective of recouping unearned salary payments owed the State.

The other expenditures we identified, which do not appear to have benefited the School, include:

- A total of $22,177 was spent on entertainment, dinners, luncheons, catering, coffee and contributions.

- A total of $22,000 was paid to a management intern at the School. However, according to School officials, this individual performed work mainly for the Stony Brook campus Performance Management Office (PMO). HSC officials state that the PMO has campus-wide responsibilities which benefit the School. Although the particular intern may not have worked on School projects, the payment supported the overall function and was, therefore, appropriate. In the absence of specific documentation to support this expenditure, we do not see how it can be considered a School-related expense.

- An HSC official received reimbursement totaling $447 for his transportation and hotel costs for a trip to his alma mater, the Harvard School of Dental Medicine, to attend a welcome reception for the new Dean. HSC officials explained that this was not merely a social event. Rather, the HSC official had participated in the selection of the Dean. Nonetheless, Harvard did not offer to pay the expense for this largely social function and HSC has not documented how this benefited the School.

- Another HSC official attended a conference in Hawaii and stayed an additional two days after the conference ended, receiving $360 reimbursement for her meals and personal lodging.

Accounting Fees

The Vice-President's Fund uses the Stony Brook Foundation to record and deposit its receipts and write checks. During the fiscal year ended June 30, 1993, the Foundation charged the Fund 10 percent of its deposits for this service. The Vice-President's Fund paid $253,680 in accounting fees to the Stony Brook Foundation during the period September 1, 1991 to December 31, 1993. (The current fee is 7 percent of the Fund's deposits.)

We reviewed the Stony Brook Foundation's charges associated with the 90 checks written for the period July 1993 to December 1993 to determine the reasonableness of the fee. We calculated that, on average, the Foundation charged the Fund nearly $400 to process each check. In effect, the processing cost for 70 of the 90 checks included in our calculation, exceeded the value of the check.

We believe that the Fund could obtain this service more reasonably. For example, the SUNY Stony Brook Accounting Department performs accounting services for the Dean's Fund at no charge to the Fund. Also, the SUNY Research Foundation charges the Plan a 4 percent fee on disbursements. (HSC officials indicated they would explore alternate vehicles for obtaining accounting services.)

Recruitment Expenditures

The Dean's Fund pays for certain School recruitment expenditures, such as a job candidate's travel expenses. The Fund's guidelines require that receipts accompany all requests for reimbursement. The guidelines also state that the Fund will reimburse the travel expenses for a job candidate's spouse only when the School has offered that candidate a job.

We selected a judgmental sample of recruitment expenditures totaling $12,000 to determine whether Fund guidelines were followed. We found that expenditures totaling about $4,090 did not meet one or more of the guidelines. The Dean's Fund reimbursed one candidate $3,000 for the cost of his flight from Johannesburg, South Africa to Stony Brook. However, the candidate did not provide a copy of the airline ticket with his request for reimbursement from Stony Brook. In two other instances, HSC reimbursed doctors a total of $1,090 for travel expenses incurred by their spouses, though neither candidate had a concrete job offer from the School. (HSC officials indicated they are reviewing the guidelines for recruitment expenses and will revise those that are not practical.)

Recommendations

1. In conjunction with SUNY Central Administration and the Board of Trustees, formulate detailed guidelines covering the appropriate use of clinical practice funds and defining those uses of funds that benefit the School.

2. Ensure that expenditures from the Dean's Fund and the Vice-President's Fund are in compliance with relevant guidelines and are supported by adequate documentation.

3. Investigate questionable expenditures, and, where appropriate, obtain restitution from the individuals involved.

4. Negotiate with the Stony Brook Foundation to obtain a more reasonable rate for accounting services provided to the Vice-President's Fund.

Plan Expenditures

The Policies limit the total amount of compensation a physician can receive from the Plan. In addition, they stipulate certain guidelines for Plan expenditures, including that operating expenses for clinical practices must meet the current IRS criteria for deductible expenses. However, not all of the expenses we reviewed met the IRS criteria for deductible expenses in that some were not adequately documented. We also found that HSC does not enforce compensation limits for Plan members or ensure that all faculty belong to the Plan, which is required.

Plan officials should ensure that Plan expenditures for clinical practice expenses are adequately documented and that compensation is within the limits set by the Policies. With better control over Plan expenses, HSC can maximize funds available to benefit the School.

Allowable Deductions

IRS regulations require business entities to keep records that clearly document and justify expense deductions. For the period July 1, 1990 through December 31, 1993, the Plan claimed over $134 million for clinical practice expenses for other than physician compensation. To determine whether these Plan costs met IRS guidelines for deductibility, as required by the Policies, we audited a judgmental sample of expenditures totaling $3.2 million. We found that $116,611 (3.6%) of these expenditures were not adequately documented, as follows:

- In September 1991, the Radiation Oncology Group submitted an invoice for $110,000 for services related to simulation and treatment planning. The basis for the $110,000 payment to the group was a memorandum from a group official to a Plan administrator stating that $110,000 was a reasonable charge for the services. A memorandum is not sufficient documentation to support an expenditure of this size.

- One physician rented a car in Israel and was reimbursed $2,905. However, the physician had submitted only a bank statement with his credit card expenditures on it to support this expense.

- An anesthesiologist submitted an expense report for a medical conference in Orlando, Florida. He did not submit a receipt with his request for reimbursement to support a $156 cost reportedly incurred for transportation to and from the airport.

The IRS allows a deduction for client, customer or employee entertainment and meal expenses if the purpose of the expenditure is the active conduct of business, and there is an expectation that there would be some benefit generated by the expenditure. The entity must keep documentation to support the business purpose. We found expenditures that did not appear to be business related. In June 1993, the Neurology Group expended $2,950 for its Annual Neurology Dinner at a club. The Plan also paid $600 to a restaurant for pizza. HSC officials indicated that these were business meetings. However, they were not able to provide us with documentation to support the business purpose.

Since the Policies stipulate that any net income remaining after all Plan obligations have been met are to be used for the benefit of the School, the use of Plan monies for expenditures which do not meet current IRS guidelines for deductibility reduces the net income available for the School.

Physician Compensation

The Policies governing the Plan provide that the compensation which a Plan member may earn from the sources listed in the Policy may not exceed 250 percent of the maximum State salary for the member's academic rank. However, under certain conditions, the institution President, with the approval of the Chancellor, may increase the maximum rate to 275 percent for some members.

We found that, contrary to the Policies, the School has allowed some physicians to exceed the maximum allowable rate for compensation. For each of the two fiscal years ended June 30, 1992 and June 30, 1993, we selected a judgmental sample of 20 highly-compensated physicians to determine if their salaries were within the Policies' limits. We found that four physicians were compensated a total of $650,000 more than the Policies allow; one physician's compensation exceeded the limit by almost $300,000.

School officials informed us that in April 1991, the Chancellor exempted three of these physicians from Plan membership, which should have meant they would no longer receive income from the Plan. However, these three physicians continued to provide services and receive salary payments from the Plan. It appears that the Chancellor's exemption was given only to lift the ceiling on these physicians' salaries.

In September 1993, the President of SUNY at Stony Brook authorized compensation for seven Plan members that was a total of $600,000 above the limit set by the Policies for the year ending June 30, 1994. School officials supported this authorization by stating that the members were

due additional compensation since they were earning clinical income well in excess of their recommended salary. However, we determined that the increase is well above the maximum limit set by the Policies and we were provided no documentation that indicated the Chancellor's approval. Moreover, the School's willingness to exceed the compensation limits may encourage faculty to spend too much time treating patients and not enough time teaching students.

In response to our draft report, SUNY officials stated that compensation limits set forth in the Policies do not reflect market economics. Consequently, HSC officials chose to exceed the stated limits in order to retain faculty to serve the academic mission of the School. Officials report they are making efforts to redefine the compensation limits. In addition, the exemptions we identified have now been approved by the Chancellor.

Plan Membership

The Policies require that any employee who serves in a position of academic rank in a school of medicine and who performs clinical practice for which a fee is usually charged or a salary is usually paid must be a member of a plan for the management of clinical practice and related income. To determine if the School complied with the Policies, we examined a judgmental sample of 62 faculty and found 2 School faculty members that were not HSC Plan participants, yet they had not been exempted from Plan membership. (HSC officials stated that the exemptions for the two individuals have now been processed.)

Recommendations

5. Ensure that Plan expenditures for clinical practice expenses are for business purposes and are adequately documented.

6. Adhere to the Plan member compensation limits set forth in the Policies.

7. Consider recovering from individual faculty members the compensation paid in excess of limits.

8. Ensure that all clinical faculty who meet the criteria for Plan membership become Plan members.

Net Income

The Policies require that any income left after all Plan obligations have been met should be used for the benefit of the School. We found, however, that the Plan does not turn its remaining clinical practice income over to the School after it has met all its obligations. Instead, at year end, the Plan keeps this money in a clinical practice custodial fund and uses it to pay for expenses in the following year. As of June 30, 1992, and June 30, 1993, the Plan's accumulated surpluses were $8.6 million and $7.9 million, respectively.

Our prior audit of HSC at Stony Brook also reported that the Plan did not transfer its surplus funds to the School. One HSC official told us that the Plan cannot transfer its accumulated surpluses to the School because property, plant and equipment account for a significant portion of these monies. However, on June 30, 1993, the Plan had over $4 million in cash and investments (net of accrued expenses) that it could have transferred to the Dean's Fund and/or the Vice-President's Fund, which were established expressly to ensure the appropriate use of Plan funds reserved for the benefit of the School.

Plan officials claim that retaining these monies in a clinical practice custodian fund meets the requirement that the funds remain in the School. However, we disagree with their position. Article XVI of the Policies states:

> "Remaining clinical practice income shall remain in a school of medicine...for the benefit of the school of medicine, or department thereof, as determined by the chief administrative officer, or his designee, after consultation with the governing board."

The surplus income is not transferred to the Dean's Fund or the Vice-President's Fund, but maintained in an account over which Plan members retain control. For this reason, the Plan's use of a custodial account does not conform to the intent of Article XVI of the Policies. Unless the accumulated surpluses and future net income is transferred to a dedicated benefit fund, there is a risk that these monies will continue to be used for the Plan and its members, and not to benefit the School. (SUNY officials indicated that they are currently evaluating the need for an alternative depository for remaining clinical practice funds.)

Recommendations

9. Transfer the $4 million in accumulated revenues in the Plan's custodial fund to the Dean's Fund and/or the Vice-President's Fund.

10. Ensure that Plan income remaining at year-end after all Plan obligations have been met is transferred to the Dean's Fund and/or the Vice-President's Fund. Establish a minimum amount to be retained for cash flow purposes (e.g., the value of one-month's expense).

Major Contributors to This Report

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June 22, 1995

Mr. Robert H. Attmore
Deputy Comptroller
Office of the State Comptroller
The State Office Building
Albany, New York 12236

Dear Bob:

In accordance with Section 170 of the Executive Law, we are enclosing the comments of the State University of New York at Stony Brook and SUNY System Administration regarding the draft audit report on Clinical Practice Management Plan, State University of New York Health Science Center at Stony Brook (94-S-34).

Sincerely,

William H. Anslow
Senior Vice Chancellor
for Finance and Management

Enc.

OFFICE OF THE STATE COMPTROLLER
ROBERT H. ATTMORE
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MGMT. AUDIT &
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Appendix B

State University of New York at Stony Brook Comments

Introduction (Pages 1-2)

Note •

The introduction implies that physicians' university responsibilities include teaching and research, that patient care activity is separate from these responsibilities and that it is permitted to enhance the income of medical faculty. The practice of medicine is integral to teaching it to medical students and residents and that is the primary reason it occurs. The report should reflect the relationship between education and patient care. Stony Brook does not regard the obligation to care for patients as different merely because a portion of a faculty member's compensation is derived from patient fees and administered through a non-State account. References to the contrary are misleading and should be changed.

Management of Funds to Benefit the School (Pages 4-7)

Expenditures to Benefit the School (Pages 4-5)

Note •

The introductory paragraph states that the School deposits 70 percent of the funds due the chief administrative officer's fund into the Dean's Fund and 30 percent into the Vice President's Fund. The actual process is that the vice president's office receives the full five percent, deposits it into the Vice President's Fund from which 70 percent of the total deposit is disbursed to the Dean's Fund.

The report criticizes the use of these funds for renovations in the health science building. We regularly use these funds for renovations that are necessary for our educational, scientific and clinical missions and we will continue to do so in the future. In the process of conducting our $450 million business, it is necessary to do a large amount of such work and it is rarely funded through State appropriations or borrowing. The funds that are used for such projects are turned over to campus or system administrators who carry out the work through their normal processes.

The audit draft questions "whether these type expenditures should instead be made from State appropriations, and be subject to budgetary controls, as well as related bidding requirements." We would be delighted to have these types of work paid for by State appropriations. However, when the work must be done and there are no State funds to pay for it, we regularly use these types of non-State funds and always attempt to abide by the spirit of the State's intent. The fact that the State's facilities are preserved and improved without using taxpayers' funds should be seen as a positive action, not the subject of an audit criticism.

Payments to the former director of nursing at the Long Island State Veterans Home from the Vice President's Fund were cited in an earlier audit report. This draft again questions whether that expenditure benefits the medical school. The official who directed that those payments be made believes that it did since the payment was related directly to the resolution of serious internal

• See State Comptroller's Note, Appendix B-9

management problems which were disrupting the home's viability as a teaching site for medical students and residents.

The Performance Management Office has campus-wide responsibilities which benefit the entire University, including the School of Medicine. Although the particular management intern whose compensation was paid through this Fund may not have worked on projects that directly related to the medical school, the payment to support the overall function was appropriate.

The draft states that an HSC official spent $447 for "a trip to his alma mater, the Harvard School of Dental Medicine, to attend a welcome reception for the new Dean." The clear implication is that the official used institutional funds to attend an alumni social event. The official in question is the Vice President for Health Sciences. Harvard is, indubitably, his alma mater. He was the dean of that school when he resigned to go to Stony Brook and in his former capacity he recruited the individual who was installed by Harvard as his successor (once removed) at the event in question . The Vice President had participated at Harvard's invitation in the selection of the new dean. Harvard, having paid the travel and living costs of the individuals who had been involved in the dean's selection, did not offer to do so for the same people's expenses at the time of installation. That the Vice President attended a cocktail party hosted by the alumni association was not the reason he went to Boston.

Accounting Fees (Pages 5-6)

The draft notes that the Stony Brook Foundation, which handles the monies deposited in the Vice President's Fund, charges an annual service fee of "7 percent of the Fund's deposits" and "We believe that the Fund could obtain this service more reasonably." The decision to have the Foundation administer that Fund was made by a previous Campus President at a time when the charges for administering the fund and processing expenditures were lower and the alternatives for managing the money were fewer. We are currently exploring alternate vehicles for administering the Dean's and the Vice President's Funds.

Recruitment Expenditures (Page 6)

The Dean's Office is reviewing its guidelines for recruitment expenses and will revise those that are not practical.

Plan Expenditures (Pages 8-10)

Allowable Deductions (Pages 8-9)

In compliance with Article XVI of the State University of New York Policies of the Board of Trustees (the "Policies"), which states that "payment of all other costs of clinical practice determined in accordance with generally accepted accounting principles and allowable to a practitioner as a deductible cost or expense under current federal Internal Revenue Service guidelines", we have, to the best of our knowledge, consistently followed both GAAP and IRS guidelines regarding all of our

disbursements.

The draft implies that the CPMP is reimbursing for expenses that are other than IRS allowable business expenses as referenced in the Policies. Every year, including those under audit, we have received a certified financial audit report from the Plan's independent auditing firm. The independent auditors have not reported any case in which we are not in compliance with the Policies. Whenever we have a question about the allowability of an expense we speak with our tax advisers of the auditing firm and comply with their recommendation. In light of the care we take to comply, and given the lack of evidence that we and our advisors are failing to achieve these goals, we disagree with the findings in this section of the report.

According to the draft audit report, total expenses, excluding physician compensation, were approximately $134 million for a three year period. A judgmental sample totaling $3.2 million was audited, of which the report claims $117,601 of expenditures were not adequately documented (3.7% of the audit sample, .071% of total expense).

The auditors reference an invoice for $110,000 submitted by the Radiation Oncology group for services related to simulation and treatment planning. This one item, which is clearly documented, represents 93% of the total dollar value of specifics provided. The requisition, invoice and related memorandums for this expenditure indicate this item as charges for simulation and treatment planning. These same services are referenced in the copy of the agreement that was supplied to the auditors. We believe that this should be deleted from the audit report.

• Note

The auditors questioned the adequacy of the documentation for the reimbursement to a physician of $156.00 for the cost of transportation to and from the airport and $990.00 for a hotel stay based on an illegible bill. The travel voucher and receipts identify the $156.00 as car service transportation to and from the airport. In spite of the poor copy quality, the room rate and taxes are identifiable on the bill and agree to the total on the travel expense voucher for four nights stay required for the meeting of May 13-16, 1990, as indicated on the conference brochure. These items should be eliminated from the audit report.

The report states a generalization for "expenditures that did not appear to be business related", however, only two instances were cited. The report is correct in stating that the Neurology group spent $2,950 for its annual dinner. Not only is this an allowable expense, this is a routine annual business meeting held for referring physicians, medical and departmental staff involved in patient care. The report notes that the CPMP paid $600 to a restaurant for pizza. This business expense was for various luncheon meetings attended by CPMP physicians. A list of attendees present for each occasion is available. These expenses are clearly not personal as was stated in the report. This item should also be deleted in its entirety from the audit report.

The expenses specifically discussed in the draft report have thus been shown to be appropriate costs of practice. There has been no material departure from proper accounting practice. We believe that the audit report should be an accurate representation and that all references contained in the report

• See State Comptroller's Note, Appendix B-9

which are unnecessarily critical or inappropriate in tone should be deleted.

Physician Compensation (Pages 9-10)

The University does have responsibility for setting physicians' maximum allowable compensation and does so within existing procedures and guidelines. The draft report criticizes the mechanisms used to determine the levels of compensation of some members of the plan. The criticism overlooks provisions of the UUP contract and the Chancellor's authority that have been used properly to establish compensation.

The draft states that plan members were improperly paid compensation above the maximums permitted by our system of compensation. We believed at the time that the President had the power under the UUP contract to make exceptions to the normal salary maximums and that power was used to raise some clinicians' compensation in the past. System Administration was informed of the President's actions. Plan members are currently and properly paid amounts that exceed the normal maximums through use of the exception provisions to salary maximums that are in the plan and the labor contract with UUP.

The Chancellor has the power to exempt individuals from mandatory plan membership and thereby exempt them from compensation limits that apply to members. That mechanism has recently been used to deal with problems created by contractual salary maximums. No plan member at Stony Brook has been paid an amount in excess of stated maximums except with written approval from the President or the Chancellor. Exempting such individuals from plan membership exempted them from plan imposed limits in total compensation and allowed us to pay them competitive compensation at very little cost in State salary and very great benefit to the institution.

Page 10, paragraph two states," The Policies also state that Plan members may not be compensated more than the income they generate" and that the Plan has "a system to ensure that Plan members are not compensated for more than the revenue they generate." These statements are not correct. The Policies state, "that no disbursements from clinical practice income for compensation of a plan member may be made where such income was not earned by the member unless there is a specific provision for such disbursement in the plan for the management of clinical practice". There is such a specific provision in our practice plan. Since there is such a provision, it is unlikely that we would have a system to prevent it. Plan administrators indicated only that they have a system to track clinical income by physician.

* Note

Plan Membership (Page 10)

Regarding the two individuals referenced in this section of the report, exemptions from the Plan are appropriate and have been processed.

* See State Comptroller's Note, Appendix B-9

Net Income (Pages 11-12)

This section starts, "The Policies require that any income left after all Plan obligations have been met should be used for the benefit of the School. We found, however, that the Plan does not turn its remaining clinical practice income over to the School after it has met its obligations." The first statement is true and it has always been carried out. The second statement is also true, but neither the UUP contract nor the Trustees' Policies require that remaining clinical income be turned over to the school, merely that it be used for the school's benefit. Technically, turning the money over to the school could be construed as turning it over to the State. That is certainly not required by the contract or the Policies. If the parties to the UUP contract want those funds to be transferred to the State or to a specific university fund, it should be so stated explicitly in the Policies.

What the Policies require is that remaining clinical income be used to benefit the school as determined by the chief administrative officer, following consultation with the governing board. Remaining clinical practice income is rarely used. When it is used, it is with the written approval of the Dean and the President, or her designee, even though the actual disbursement of funds is made by the plan.

The statement later in the section that "The surplus income is not transferred to the Dean's Fund or the Vice President's Fund, but maintained in an account over which Plan members retain control" suggests that plan members retain control over remaining clinical practice income. They do not. Clinical practice income is administered in accordance with paragraph 4 (g)(6) of Article XVI of the Policies, even though it remains until disbursement from the plan's interest-bearing account.

Recommendations

Page 7

(OSC) 1. In conjunction with SUNY Central Administration and the Board of Trustees, formulate detailed guidelines covering the appropriate use of clinical practice funds and defining those uses of funds that benefit the School.

(SUNYSB) 1. The Board of Trustees has directed the Chancellor to develop guidelines for the expenditure of clinical practice income.

(SUNY) 1. An interdisciplinary workgroup under the Vice Provost for Health Sciences and Hospitals has undertaken development of "Accountability Guidelines" for Faculty Practice Plans consistent with Article XVI of the Policies of the Board of Trustees. The Faculty Practice Group's objective was to develop an over-all set of expenditure guidelines for review and adoption by the Trustees. A final draft of these guidelines was presented to the Health Sciences and Hospitals Committee at their April, 1995 meeting. Upon adoption, in the near future, it is expected that these guidelines will be

promulgated to the Practice Plans for implementation.

(OSC) 2. Ensure that expenditures from the Deans's Fund and the Vice President's Fund are in compliance with relevant guidelines and are supported by adequate documentation.

(SUNYSB) 2. We currently ensure that expenditures from the chief administrative officer's fund comply with existing guidelines and are supported by adequate documentation.

(SUNY) 2. In conjunction with development of Practice Plan accountability guidelines, guidelines for the Chief Administrative Officer's Fund have been developed by the Faculty Practice Group. These guidelines were presented to the Health Sciences and Hospitals Committee for their review at their April, 1995 meeting. It is expected that these guidelines will be adopted in the near future.

(OSC) 3. Investigate questionable expenditures, and, where appropriate, obtain restitution from the individuals involved.

(SUNYSB) 3. We have investigated the questionable expenditures and will request repayment where appropriate and possible.

(SUNY) 3. We agree with the Campus response.

(OSC) 4. Negotiate with the Stony Brook Foundation to obtain a more reasonable rate for accounting services provided to the Vice President's Fund.

(SUNYSB) 4. We are exploring alternate vehicles for obtaining accounting services for the Dean's and the Vice President's Funds. We agree that the Vice President's Fund should obtain more reasonable rates.

(SUNY) 4. We agree with the recommendation and the Campus response.

Page 10

(OSC) 5. Ensure that Plan expenditures for clinical practice expenses are for business purposes and are adequately documented.

(SUNYSB) 5. We believe that the expenditures cited in the report were appropriate and provided the auditors with the supporting documentation.

(SUNY) 5. We agree with the Campus response.

(OSC) 6. Adhere to the Plan member compensation limits set forth in the Policies.

(OSC) 7. Consider recovering from individual faculty members the compensation paid in excess of limits.

(SUNYSB) 6. We adhere to the compensation limits or obtain appropriate approvals for authorized exceptions.

(SUNYSB) 7. Since all compensation paid in excess of limits was authorized, no recovery is appropriate.

(SUNY) 6-7. Compensation limits set forth in the Policies no longer reflect market economics. High earning faculty are constantly subjected to recruiting efforts by competitors attempting to lure them away from the Medical Center. Officials at Stony Brook chose to exceed the stated limits in order to retain faculty to serve the academic mission of the Medical School; justifying this by paragraph 4(a)(1) of the Trustees' Policies: "The president shall assure that no actions are taken under the clinical practice plan that are inconsistent with the educational mission of the college." Recognition of the increasing magnitude of this issue for a very small group of high earning subspecialists at all 4 medical schools has resulted in efforts at the present time to redefine the compensation limits in the new round of collective bargaining. Redefinition of compensation limits at more reasonable levels will enable our schools to compete for, and retain these faculty to support the educational mission, and will enable the schools to assure adherence to the established compensation limits.

(OSC) 8. Ensure that all clinical faculty who meet the criteria for Plan membership become Plan members.

(SUNYSB) 8. We are rigorous in ensuring that all clinical faculty who meet the criteria for Plan membership become members.

(SUNY) 8. The eleven physicians cited by the Comptroller (page 9 of the report) as having received compensation above 250% of the maximum for rank, fell into two categories.

In the first category, one physician was identified whose compensation was above 250%, but below the 275% maximum, which requires Chancellor approval. When this matter was brought to our attention, the Chancellor reviewed and approved the compensation.

A second group, consisting of ten physicians, was identified whose salaries

were above the 275% maximum, and who had a limited connection with the University. Participation of faculty is determined by adherence to criteria as set forth in paragraph 4.(b)(1) through (3) of the Policies. Specifically, "the chief administrative officer or designee, with the approval of the Chancellor, may grant exemptions from membership to employees whose primary employment is not with the State University of New York and who have only a limited connection with the State University." When this was brought to our attention, the exemptions were formally approved by the President and the Chancellor. The Office of Health Sciences and Hospitals, at the direction of the University Provost, has been developing procedures to assure the proper approval sequence of exemptions.

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(OSC) 9. Transfer the $4 million in accumulated revenues in the Plan's custodial fund to the Dean's Fund and/or the Vice President's Fund.

(OSC) 10. Ensure that Plan income remaining at year-end after all Plan obligations have been met is transferred to the Dean's Fund and/or the Vice President's Fund. Establish a minimum amount to be retained for cash flow purposes (e.g., the value of one-month's expense).

(SUNYSB) 9-10. The Trustees' Policies do not require the "transfer" of remaining clinical income.

(SUNY) 9-10. SUNY System Administration and Stony Brook officials are currently evaluating the need for an alternative depository for remaining clinical practice funds. This process includes the need to determine the level of cash balances that must remain in the operating accounts of the clinical practice plan to meet its cash flow needs.

State Comptroller's Note

Certain matters addressed in the draft report were revised or deleted from the final report. Therefore, some agency comments included in Appendix B may relate to matters no longer contained in this report.